

California Water Crisis Salinity And Water Rights

Salinity Stakeholder Workshops

April 10 & 17, 2008

Tulare & Sacramento, California

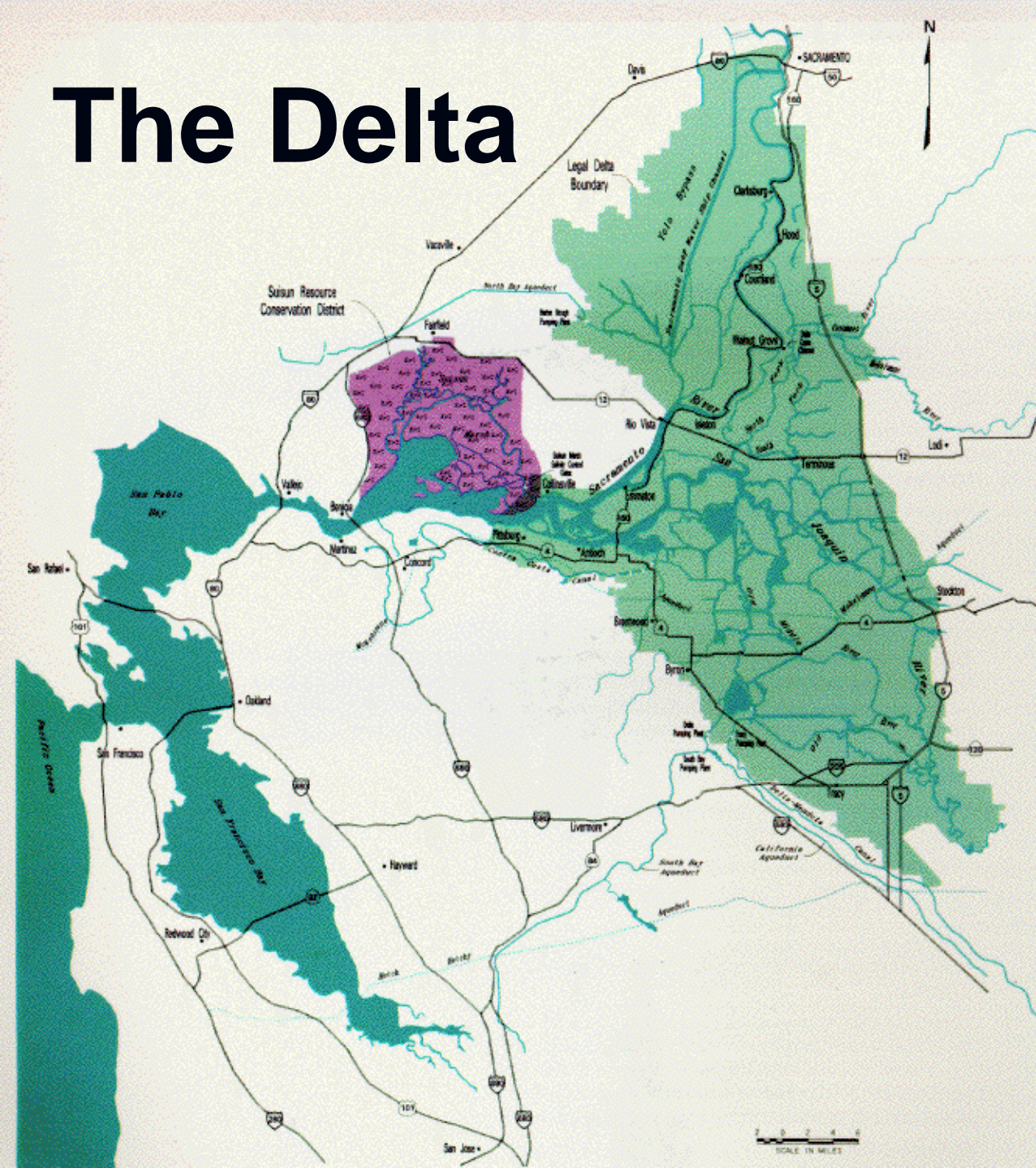
Summary

- Nexus between salinity and water rights
 - Physical
 - Statute, regulation, and case law
- Where is this relationship apparent?
- Water Right System
- Ground Water Adjudications
- Wastewater Changes
- Water Right Complaints
- Update on the Water Board's Bay-Delta Strategic Workplan

Nexus Between Quality And Water Rights

- San Francisco Bay / Sacramento-San Joaquin Delta Estuary
 - Seawater intrusion
 - Southern Delta (including San Joaquin River near Vernalis)
- Mono Lake

The Delta





The Projects

The State and federal water projects move water from where the supply is to where the demand is...
South

Water Right System

- Permitting authority over appropriative water rights – includes continuing authority
 - Standard permit terms (CCR section 780)
 - Release of stored water (CCR section 784)
- Approve petitions for change to existing water rights – includes changes to facilitate short and long term transfers of water
- Complaint/compliance/enforcement activities
- Public trust actions
- Adjudications and fully appropriated streams

Standard Permit Terms and Conditions

- Section 780 California Code of Regulations:
 - “Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board...”

Standard Permit Terms and Conditions (CCR § 780)

“... in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.”

Public welfare, public trust, and reasonable use

Release of Stored Water (CCR § 780)

- The State Water Board may require releases of water diverted and stored whenever such releases are determined by the Board to be in the public interest or are needed to protect public trust uses of water...
- But such a release cannot be required by the Board unless the permittee agrees or unless the Board at the time the permit was issued expressly reserved jurisdiction to require such bypass or release... but...

Court Decisions

- Audubon (National Audubon Society v. Superior Court, 1983)
- Racanelli (U.S. v SWRCB, 1986)
- Robie (Various Groups v SWRCB, 2006)
- Wanger (NRDC v. Kempthorne, 2007)

Ground Water Adjudications

- Water Code section 2100, adjudications to protect the quality of ground water:
“After the department has submitted to the board recommendations for the protection of the quality of ground water pursuant to section 12617.1 or 12923.1 of this code, or in reliance upon investigation by any governmental agency, the board may file an action in the superior court to restrict pumping, or to impose physical solutions, or both, to the extent necessary to prevent destruction of or irreparable injury to the quality of such water...”

Wastewater Changes

- Water Code section 1211:
“Prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater, the owner of any wastewater treatment plant shall obtain approval of the board for that change.”

Water Rights Complaints

- Felix Smith- waste and unreasonable use
- Bob Baiocchi, California Salmon and Steelhead Association- unreasonable use
- California Water Impact Network and California Sportfishing Protection Alliance- unreasonable method of diversion

Update on the Water Board's Bay-Delta Strategic Workplan

- Resolution adopted December 2007
- Updates to Board, most recent April 15
- Draft strategic workplan in mid May
- Consideration in June or July

Tension...

- ... between waste and unreasonable use and action taken in the public interest and to protect public trust uses of water

Bay-Delta Standards

DRAFT

Contained in D-1641

Per DWR SWP web page

CRITERIA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
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FLOW/OPERATIONAL

• Fish and Wildlife

SWP/CVP Export Limits

1,500cfs [1]

Export/Inflow Ratio [2]

65%

35% of Delta Inflow [3]

65% of Delta Inflow

Minimum Delta Outflow

[4]

3,000 - 8,000 cfs

Habitat Protection Outflow

7,100 - 29,200 cfs

Salinity Starting Condition [6]

[6]

River Flows:

@ Rio Vista

3,000 - 4,500 cfs

@ Vernalis - Base

710 - 3,420 cfs [8]

[8]

- Pulse

[9]

+28TA

Delta Cross Channel Gates

[10]

Closed

[11]

Conditional [12]

WATER QUALITY STANDARDS

• Municipal and Industrial

All Export Locations

≤ 250 mg/l Cl

Contra Costa Canal

150 mg/l Cl for the required number of days [12]

• Agriculture

Western/Interior Delta

Max.14-day average EC mmhos/cm

Southern Delta [14]

1.0 mS

30 day running avg EC 0.7 mS

1.0 mS

• Fish and Wildlife

San Joaquin River Salinity [15]

14-day avg; 0.44

Suisun Marsh Salinity [16]

12.5 EC

8.0 EC

11.0 EC

19.0

[17]

15.5